FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR.

Second Appeal No. 363 of 2007
(Saraswatibai Janrao Raut & 3 others **VERSUS** Ukandrao Jyotiramji Pande **)**

Appeal — District :
Application No. — of 200
Writ petition

Office Notes, Office Memoranda of Coram, appearances, Court's orders of directions and Registrar's orders	Court's or Judge's Orders

Shri Patil, Advocate for the appellants.

CORAM : Smt. Vasanti A. Naik, J.
DATE : 3rd August, 2007.

Heard Shri Patil, the learned counsel for the appellants.

The appellants are the original defendants. The plaintiff filed a suit on the basis of his possessory title under Section 5 of the Specific Relief Act. According to the plaintiff, the defendants had unauthorisedly taken the possession of the suit house hence, by filing the instant suit, the plaintiff claimed the possession of the suit property from the defendants.

The defendants denied the claim of the plaintiff and pleaded that the defendants were not the trespassers in the suit property but were the tenants.

On the pleadings of the parties, the issues were framed and the trial Court, after considering the evidence tendered by both the parties, held that the plaintiff had proved that the defendants were unauthorisedly occupying the suit house. The Court further held that the defendants had failed to prove that they were the tenants in the suit property. The suit filed by the plaintiff for possession of the suit property was decreed.

An appeal preferred by the defendants against the judgment and decree passed by the trial Court was also dismissed. The appellate Court held that the defendants were unauthorisedly occupying the suit house at the time of the institution of the suit. The appellate Court held that the defendants had failed to prove that they were the tenants in the suit house. The findings recorded by the trial Court were confirmed in appeal.

The findings recorded by both the Courts are based on the evidence tendered by the parties on record. The plaintiff had produced

copy of index no.2 at Exh.21, the tax receipts, the tax assessment extract, the property card and various other documents to establish his case. The plaintiff duly established his possessory title over the suit property.

The Courts observed that the defendants had not produced any cogent evidence to prove that the defendants were the tenants in the suit property. The findings recorded by both the Courts are pure findings of facts based on a proper appreciation of the material evidence on record. The findings do not give rise to any substantial question of law.

The second appeal is, therefore, dismissed with no order as to costs.

JUDGE

APTE